

## **ADMINISTRATIVE PANEL DECISION**

Belmond Management Limited v. Golrito oPtikola  
Case No. D2024-0662

### **1. The Parties**

The Complainant is Belmond Management Limited, United Kingdom, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Golrito oPtikola, United Kingdom.

### **2. The Domain Name and Registrar**

The disputed domain name <belmondhotelsgroup.com> is registered with Hostinger Operations, UAB (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 13, 2024. On February 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 14, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 14, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on February 19, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 12, 2024.

The Center appointed Jane Seager as the sole panelist in this matter on March 21, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant is a company that operates hotels, restaurants, safaris, train services and river cruises in 24 countries across 50 properties. Formerly known as “Orient-Express Hotels Limited”, the Complainant rebranded as “Belmond” in 2014. In April 2019, the Complainant was acquired by the LVMH Group.

The Complainant is the owner of trademark registrations for BELMOND, including the following:

- Swiss Trademark Registration No. 654784, BELMOND (and design), registered on February 13, 2014;
- European Union Trade Mark No. 012293411, BELMOND (and design), registered on November 8, 2014; and
- United States of America Trademark Registration No. 4832479, BELMOND (and design), registered on October 13, 2015.

The Complainant is also the registrant of the domain name <belmond.com>, from which it operates a consumer-facing website.

The disputed domain name was registered on November 7, 2023. The disputed domain name does not resolve to an active web page.

On December 20, 2023, the Complainant’s representatives sent a notice to the Respondent, via the proxy service with which the disputed domain name was registered, requesting transfer of the disputed domain name. The Complainant sent further notices to the Respondent via the proxy service on January 2, 2024, and on January 12, 2024. The Respondent did not reply to the Complainant’s notices.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant asserts rights in the BELMOND trademark. The Complainant submits that the disputed domain name is confusingly similar to its BELMOND trademark. The Complainant argues that the addition of the terms “hotels group” being linked to the Complainant’s brand and trademark serves to underscore and increase the confusing similarity between the disputed domain name and the Complainant’s trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant states that it has not granted any permission to the Respondent for it to use the Complainant’s trademark in any manner. The Complainant notes that the disputed domain name resolves to a blank page and submits that the Respondent has not made any legitimate use of the disputed domain name. The Complainant further submits that the Respondent is not commonly known by the disputed domain name.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. The Complainant argues that the Respondent knew or should have known of the Complainant’s rights in the BELMOND trademark when registering the disputed domain name and did so with the intention of causing

confusion amongst Internet users. The Complainant asserts that there is no plausible good-faith reason for the Respondent to have registered the disputed domain name and submits that the Respondent's passive holding of the disputed domain name amounts to use of the disputed domain name in bad faith.

The Complainant requests transfer of the disputed domain name.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

In order to prevail, the Complainant must demonstrate on the balance of probabilities that it has satisfied the requirements of 4(a) of the Policy:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) The disputed domain name was registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Panel assessment of identity or confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of the relevant mark. To the extent that design (or figurative/stylized) elements would be incapable of representation in domain names, these elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.10.

The disputed domain name comprises the textual elements of the Complainant's BELMOND trademark as its leading element, followed by the terms "hotels" and "group". The Panel finds the Complainant's trademark to be recognizable in the disputed domain name. The addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or

legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

As noted above, the disputed domain name does not resolve to an active web page. There is no other evidence of the disputed domain name having been used for any other purpose (such as email). There is no evidence of the Respondent having made any demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services in accordance with paragraph 4(c)(i) of the Policy. [WIPO Overview 3.0](#), section 2.2. The disputed domain name was registered using a proxy service. The underlying registrant has been disclosed as “Golrito oPtikola” whose name bears no resemblance to the disputed domain name. The Panel finds that the Respondent is not commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy. Nor is the Respondent making any legitimate noncommercial or fair use of the disputed domain name pursuant to paragraph 4(c)(iii) of the Policy. Indeed, in light of the composition of the disputed domain name, comprising the Complainant’s BELMOND trademark together with the terms “hotels” and “group”, the Panel finds that the disputed domain name carries a risk of implied affiliation with the Complainant and as such does not support a finding of fair use. [WIPO Overview 3.0](#), section 2.5.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The registration of the Complainant’s BELMOND trademark substantially predates the Respondent’s registration of the disputed domain name. Since rebranding to the name “Belmond” in 2014, the Complainant has acquired reputation and goodwill in its BELMOND trademark as a result of its widespread international use. Noting the composition of the disputed domain name itself, the Panel infers that the Respondent was likely aware of the Complainant and its rights in the BELMOND trademark. In the absence of any evidence or assertions from the Respondent to the contrary, the Panel infers that the disputed domain name was registered with knowledge of the Complainant and its trademarks, carrying a risk of implied affiliation with the Complainant, in bad faith.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant’s trademark, and the composition of the disputed domain name, the lack of response from the Respondent, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

## 7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <belmondhotelsgroup.com> be transferred to the Complainant.

*/Jane Seager/*

**Jane Seager**

Sole Panelist

Date: April 9, 2024